



STATE OF WASHINGTON

STATE BUILDING CODE COUNCIL

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MINUTES STATE BUILDING CODE COUNCIL

Date: January 13, 2006
Location: Masonic Reception Center, Tumwater

Council Members Present: John Neff, Chair; Peter DeVries, Vice Chair; Kristyn Clayton; John Cochran; Neva Corkrum; Stephen George; Diane Hansen; Tom Kinsman; Terry Poe; Dale Wentworth; Ron Fuller

Council Members Absent: Dave Baker, Rory Calhoun, Mari Hamasaki, Steve Mullet

Visitors Present: Debbera Coker, Larry Waters, Tom Nichols, Steve Wilcox, John Napier, Chuck Day, Bob Eugene, Bill Disney, Kraig Stevenson, Paul O'Connor, John Hogan, Brian Minnich, Maureen Traxler, Lance Talley, Tom Brubaker, Diane Glenn, Garrett Huffman, Liz Klumpp, Chuck Murray, James Kirby

Staff Present: Tim Nogler, Krista Braaksma, Chuck Heath, Sue Mathers

CALL TO ORDER

Chairman John Neff called the meeting to order at 10:13 a.m. John welcomed everyone. Introductions were made.

REVIEW AND APPROVE AGENDA

Tim Nogler said since the Governor has yet to appoint new Council members, "Election of Officers" and "Committee Assignments" should be postponed to a later date. He noted that until new appointments are made, current Officers and Committee members continue to serve.

Tim recommended moving "Draft Interpretation No. 06-Jan01" from "Other Business" to Item 5. The agenda was approved as amended.

REVIEW AND APPROVE MINUTES

The minutes of the November 4 and December 1 Council meetings were reviewed and approved as written.

PUBLIC COMMENT ON ITEMS NOT COVERED BY THE AGENDA

Tim referred to a January 5, 2006 letter from the Master Builders Association (MBA) about the City of Kent's interpretation of RCW 19.27.060 and enforcement of the International Fire Code.

Diane Glenn said the original contention involved a 10-foot setback on the side of Kent residences required of builders by fire officials if access windows were on the sides of the buildings. Authorities cited include IFC 104.1.1, an amendment to the Kent City Code of IFC 504.1 and RCW 19.27.060(5).

Diane said the City of Kent's amendment requires access to rescue windows by a 35-foot ground extension ladder at a 70-degree inclination. A 36-inch wide discharge area is also required around the base of the ladder in all directions. The City of Kent's amendment parallels those previously adopted by King County and the City of Covington. Kent's amendment was not submitted for review and approval by the State Building Code Council. The MBA believes that since it affects single-family residences, it must be approved by the Council.

Brian Minnich, Building Industry Association of Washington, said that BIAW's general counsel has reviewed the statute and the City of Kent's amendment. They have also discussed the matter with master builders in King and Snohomish Counties. As a result, BIAW absolutely concurs with MBA's assessment that the amendment should have been reviewed and approved by the State Building Code Council.

Tom Brubaker, City Attorney, City of Kent, said the issue involves second-story rescue windows in residential homes. Kent believes that rescue windows are of little value unless they're accessible. Therefore the City of Kent passed an amendment to IFC 504.1 that requires the ability to lean a ladder against rescue windows at a 70-degree angle.

Tom said that the City of Kent did not submit the amendment to the Council for its approval because RCW 19.27.060(5) exempts from Council approval "the authority of a county or city to adopt street, road, or access standards." The City of Kent believes that local jurisdictions have statutory authority to regulate access to streets and buildings by fire and emergency rescue personnel and equipment without prior Council approval.

One consequence of Kent's amendment is smaller building lots. While sympathizing with the building industry, Tom said the overriding concern of the city is public life/safety.

John Neff asked when the City of Kent first adopted the amendment to IFC 504.1. It was first adopted on July 1, 2004. It did not exist under the Uniform Building Code in the City of Kent. Jon Napier, Fire Marshal for the City of Kent, said it was part of the King County and City of Covington codes prior to the adoption of the International codes.

John Napier said the City of Kent has been working with master builders, trying to find an equitable solution to the controversy. One option, installing “no build, rescue easements” through the side yards of homes, has been moderately successful. Such easements are recorded during platting. Other options include installing sprinklers or changing floor plans.

Mr. Napier welcomed additional options from the Council. He noted that this issue isn’t pertinent to every home in Kent. Not all model homes have been built with a second-story rescue window. He said it’s a difficult problem in some instances, but not insurmountable.

Peter DeVries asked if the controversy primarily concerns egress windows on second floors. Mr. Napier responded that it involves all egress windows. Peter added up the height of a standard residence and concluded it’s only about 17 feet. He asked why a 35-foot ladder is needed. Mr. Napier responded that most fire apparatus ladders sold are 35-foot extension ladders. Space available in fire trucks isn’t sufficient to carry ladders for one-story, two-story, three-story and multiple-story buildings. Thus they carry extension ladders so they can respond to emergencies and fires in commercial buildings and apartments as well as residential buildings. They also have to vent rooftops.

Peter asked Mr. Napier about the 70-degree angle. Mr. Napier said the fire industry is regulated by the National Fire Protection Association (NFPA). They regulate ladder placement. If the ladder is flatter than 70 degrees or too steep, the spurs on the bottom of the ladder won’t maintain the footing. Mr. Napier said other than 70 degrees results in an unsafe rescue operation.

Peter expressed concern about the money spent by builders who submit plans to the building department, have them approved, and then go to the fire department and have the project disapproved. Mr. Napier answered since the effective date of the amendment, builders are notified in advance, through the land use planning process, that they’ll have to address this issue. He said builders have to design an appropriate floor plan to fit a particular lot size. John Neff asked if the issue is a condition of the plat. Mr. Napier said it usually is. The issue is raised during the zoning process except for projects that predate the amendment.

Ron Fuller asked why the City of Kent thinks RCW 19.27.060(5) exempts its amendment to IFC 504.1. Mr. Napier said that subsection refers to “access.” He said Kent is addressing all access standards, road and street access, retaining walls, steep slopes, in addition to access windows. Neighboring jurisdictions were also looked at. Both the City of Covington and King County have similar requirements. The City of Kent wants

builders to face consistent requirements. Mr. Napier said Kent contacted CTED during spring 2004 and received a verbal opinion that its amendment is access-related.

Mr. Napier said the difference between the Cities of Kent and Covington and between Kent and King County is that the City of Kent requires a three-foot discharge area, allowing firefighters room to get on and off the ladder. He said that at a 70-degree angle, the spurs of a ladder are at five feet. Because a fence, retaining wall or rockery may occur at that point, the City of Kent adds another three feet to the open side of the ladder. Thus the allowance becomes eight feet.

Mr. Napier added that the bulky clothing of firefighters and the apparatus they carry up ladders, including chain saws, contribute to the space requirement.

Tom Kinsman asked how many documented cases have occurred in the last five years in Kent where fire or rescue personnel haven't been able to access second- or third-floor windows. Mr. Napier answered that he's not aware of any cases.

Dale Wentworth asked how often this issue arises in Kent. Mr. Napier said two plats have used the "no build easement" and are willing to build fences. He predicted the situation will worsen, as "triple nickel lots" have rescue windows at the rear of the residences and builders use the entire building envelope they're allowed. Unsure of a total number, he offered to send information to Dale. Mr. Napier receives requests for modification of IFC 504.1 requirements. He said that such requests total one or two per month.

Ron commented that the issue is more zoning or platting than building code-related. Mr. Napier spoke against a wholesale change to zoning law. As he noted earlier, the issue isn't applicable to every home. Ron said he believes variable setbacks are possible. Tom Brubaker disagreed, saying it's a life/safety issue. He said the issue is protecting human life. It doesn't deal with land use, zoning or density.

Mr. Brubaker predicted that if Kent went through the zoning code, saying it needs 8-10 foot side-yard setbacks to ensure life/safety for rescue window openings, the building industry would accuse the city of overreacting. Ron disagreed, saying zoning and growth management are highly tied to life/safety. Mr. Brubaker emphasized that the city is trying to address the problem with as minimal an impact as possible.

James Kirby said that Morris Homes, Inc. is appealing the City of Kent's amendment. He said it impacted his company a year ago in a plat started under the Uniform Building Code (UBC), involving 40-foot wide homes on 50-foot lots. The basic plans were approved by the City of Kent. However a building permit was denied, even though the plans met all International Residential Code (IRC) and zoning code requirements, because of rescue window access. His company brought to Kent's attention at that time that its amendment impacts single-family construction and thus requires Council review and approval. A satisfactory conclusion, reducing the setbacks to eight feet, was finally reached in that case.

However, Morris Homes currently has two permits on hold. It also has lots of already recorded plats in Kent, where Mr. Kirby says the only two options are not to build or to install sprinklers. Mr. Kirby pointed out that this issue has arisen only in jurisdictions in Kent, Covington and a small portion of King County. A poll of 100 or so permits in other portions of King County taken last year indicates that they haven't had to deal with this issue.

Tom asked if Morris Homes Inc., building in areas outside of Kent, Covington and King County, has encountered this problem. Mr. Kirby said Morris Homes builds from Kirkland to Pierce County and has not encountered this problem elsewhere. He said that five-foot side yards have been typical elsewhere for years.

Garrett Huffman thanked the Council for taking time to discuss this issue today. He believes it is an outgrowth of the growth management act, because building lots are increasingly becoming denser. He appreciates the city's challenges and its willingness to work with builders to reach amicable solutions. While acknowledging NFPA requirements, Mr. Huffman said Washington has adopted the International set of codes, requiring Council oversight of amendments that affect single-family construction.

John Neff said that policy questions surrounding this issue will be discussed during the Staff Report today. Then it will be on the agenda of the next Council meeting, scheduled for March 10 in the SeaTac area.

DRAFT INTERPRETATION NO. 06-JAN01

Krista Braaksma said that in this interpretation request, Mason County asks if continuous mechanical ventilation used in lieu of crawlspace ventilation, as allowed in the IRC and IBC, satisfies requirements of the 2003 Ventilation and Indoor Air Quality Code. Her draft response is yes, as long as the fan operates continuously to prevent radon gas from building up and penetrating into the living space.

Larry Waters expressed concern about a mechanical fan failing or being accidentally shut off. He asked if the local jurisdiction can require an alarm or signal to be installed to notify the homeowner that the fan has failed. Since the issue is basically electrical, Ron answered that the electrical code allows local jurisdictions to adopt local regulations requiring the installation of a signal or alarm.

Kristyn Clayton emphasized that the fan must have an independent control system. John Neff read the following suggested, amended answer:

Yes, as long as the fan does operate continuously and the vent exhausts independently of any other mechanical system serving the living space.

Terry Poe asked if this interpretation would be applicable only to those Washington counties identified as radon-prone or if it would be applicable statewide. Chuck Murray

said six counties in eastern Washington are identified as high radon counties. However this interpretation would be applicable statewide.

Motion #1:

Tom Kinsman moved to adopt draft Interpretation No. 06-Jan01 as amended by the Council. John Cochran seconded the motion. The motion was unanimously adopted.

ENERGY CODE POLICY REVIEW

Tim said, with 2006 code editions published, he anticipates rulemaking this year. He reminded everyone that the deadline for code change proposals is March 1. That date is relevant to this discussion because code amendment proposers need to know which code to write amendments to.

Tim reminded the Council that Chuck Murray summarized the report from the Energy Code TAG comparing the Washington State Energy Code (WSEC) with the International Energy Conservation Code (IECC) at the last Council meeting. A table at the conclusion of that report presents options for energy development in Washington State. Discussion today will revolve around what direction the Council wishes to pursue.

Kristyn said that the short-term recommendation of the Energy Code TAG is to maintain the WSEC, and its long-term goal is to move the WSEC and IECC closer together. She referred to a letter from Stan Price, in which Stan expresses surprise about the degree of consensus reached during the comparison study and cautions the Council against moving too quickly from the WSEC to the IECC.

Kristyn explained that the process used by the TAG was to simply note disagreement about code sections if consensus could not be reached. Since time allowed neither detailed discussion nor formulation of amendments, neither occurred.

Kristyn asked for discussion among Council members about whether Washington should continue to write its own energy code. John Neff said two examples of Washington moving away from code writing is the adoption of ANSI A117 and Chapter 11 of the building code for accessibility.

After reviewing the report from the Energy Code TAG and hearing Chuck Murray's presentation, John Neff now agrees with Stan that moving from the WSEC to the IECC is a lengthy process that shouldn't be rushed. He said the Council doesn't know enough presently about the IECC and its equivalency with the WSEC. He suggested making a commitment that in 2009 Washington adopt the IECC with state amendments.

Kristyn raised a philosophical question, whether the Council wishes to equal or exceed IECC equivalency. She said that Dale Shafer, an ex-Council member and current Energy Code TAG member, recommends exceeding IECC equivalency by 20 percent. TAG members are proud that Washington has always been a leader in energy efficiency. But

other states are in the process of catching up. So Kristyn asked if Washington wishes to retain its leadership position. John Cochran said that exceeding the IECC by 20 percent will eventually become impractical, as the IECC evolves. John Neff and Kristyn agreed. Kristyn modified the question then, asking how Washington can continue to be a leader when it adopts the International code. Tom Kinsman noted that leadership doesn't necessarily mean greater or more stringent regulation.

Another challenge Kristyn raised is how to reconcile transition from the WSEC to the IECC with the statutes. Should the TAG address that issue? John Neff said if Washington adopts a code as the Washington state energy code, it shall be the Washington State Energy Code. It's similar to the fact that Washington has a Washington State Building Code. It's the International Building Code with state amendments. The statute sets the minimum performance requirements. Kristyn asked if the TAG should do a statutory review? John Neff failed to see the need, except for such issues as climate zones. John Cochran said the Council would appreciate the TAG's advice about that question.

Kristyn said the comprehensive comparison analysis, statutory discussion and decision whether or not Washington wants to be a leader should be completed by February 2008. John Neff said discussions about statutes, so that potential revisions can be introduced in the 2007 session, must be accomplished before October 2006. During that process, John Neff said all parties involved should provide input.

Motion #2:

Kristyn Clayton moved that the Council approve the workplan for the Energy Code TAG to (1) continue to maintain the Washington State Energy Code, (2) assist in reviewing the statutes relating to the IECC and WSEC, (3) identify the best path for adopting the IECC in 2009. Peter DeVries seconded the motion. The motion was unanimously adopted.

FIRE CODE TAG REPORT – NIGHTCLUB RULE

In response to many concerns and questions about applying the rule adopted by the Council requiring the installation of fire sprinklers in nightclubs, the Fire Code TAG recently met and reviewed a draft document. With minor amendments to the Application and Interpretation of Nightclub Sprinkler Requirements, the TAG reached consensus that this document provides guidance, advising local jurisdictions and interested parties how to determine what occupancies are required to retroactively install sprinklers. Diane asked for Council comments, expressing concerns or asking questions. The intent of the document is to be advisory. Therefore, Diane said, amendments aren't necessary unless the Council wishes the document to be an official interpretation. John Neff agreed to call the document a guidance tool prepared by the TAG. Tim agreed that is the favorable option.

John Neff expressed concern about a question on the last page, “Does a club (Eagles, Moose, Elks, VFW, etc.) that may only meet all of the criteria once a month qualify as a nightclub?” Diane suggested deleting “Frequently Asked Questions.” John Neff agreed. Diane said a section-by-section analysis is more appropriate. She said the document is a work in progress that will change, as additional jurisdictions are visited.

Diane noted that ultimately it’s the responsibility of the authority having jurisdiction to interpret the rule. Tom Kinsman disagreed with removing “Frequently Asked Questions.” He said he’ll e-mail suggestions to Diane.

2006 WORKPLAN

Tim called attention to 2006 workplans for the Building Code TAG, the Fire Code TAG, and the Mechanical and Ventilation Codes TAG. He said that 2006 editions of the codes are expected the first week of February.

For the Building Code TAG, the first task is the review of current statewide amendments to determine if they still apply to the 2006 codes. Included in that task is whether or not current stand-alone state amendments for licensed care occupancies and Chapter 29, plumbing systems, need to be updated. The Building Code TAG will then review new proposed statewide amendments submitted before March 1, 2006. Thirdly the TAG will recommend code amendments to be submitted to the national code development process to the Building, Fire and Plumbing Codes Committee in time to meet a March 24 deadline.

A division of the Building Code TAG is the International Existing Building Code (IEBC) SubTAG, to study Chapter 51-19 of the Washington State Historic Building Code and the IEBC for code compatibility and needed updates. Another division is the Elevator SubTAG to review hoistway venting and machine room HVAC.

Tim said workplans for the Fire Code TAG and the Mechanical and Ventilation Codes TAG parallel the workplan for the Building Code TAG. A specific task of the Fire Code TAG is to provide technical support interpreting and implementing the nightclub sprinkler rule. Specific tasks of the Mechanical and Ventilation Codes TAG are to review fuel gas code references and current National Fire Protection Association standards for liquefied petroleum gas. The Ventilation and Indoor Air Quality Code will also be reviewed for possible integration into the International Mechanical Code. And radon provisions in the International Residential Code will be studied.

The Fire Code TAG reports to the Building, Fire and Plumbing Codes Committee of the Council. The Mechanical and Ventilation Codes TAG reports to the Mechanical, Ventilation and Energy Codes Committee. Tim said the current TAGs will be activated in February. Membership changes need to be identified, including updated constituency group representation. He said the Council chair approves TAG membership.

John Cochran asked for confirmation that TAGs recommend code amendments to be submitted to the national code development process at the March 10 Council meeting, to meet the March 24 deadline. Tim confirmed that's true. TAG reports will be on the agenda for the March 10 meeting.

John Neff suggested that code amendments to be submitted to the International Code Council (ICC) should be decided in November, when the Council adopts code amendments. He said otherwise amendments are advanced to the national level before the Council adopts them. Amendments may change from March to November, based on public hearings and other factors. Tom Kinsman said that in a normal year, the Council should be ready on March 1 because it knows the issues to be amended. Tim said that state amendments currently in effect that have been adopted by the Council and are found absent in the 2006 editions of the International codes may be forwarded to the national level.

Motion #3:

John Cochran moved to approve the workplans for the Building Code TAG, the Fire Code TAG, and the Mechanical and Ventilation Codes TAG. Steve George seconded the motion. The motion was unanimously adopted.

Chuck Day, Adair Homes, said he'd like to continue serving on the Building Code TAG. He also encourages continuation of the IRC SubTAG. John Cochran said since the IRC is a stand-alone code now, it may warrant its own TAG. Tim said he included both the 20006 IBC and 2006 IRC in item #1 on the Building Code TAG workplan. He believes the intent is to maintain the IRC SubTAG.

LEGISLATIVE UPDATE

Tim said no legislation has been introduced this session at the request of the Council. Staff has been monitoring bills introduced by others that affect the Council. He said there was a hearing yesterday on HB 2323, a carryover bill from last session, relating to accessory dwelling units. As currently written, this bill authorizes cities and counties to waive code requirements for accessory dwelling units. John Neff testified at the hearing, advising the committee that Washington has a minimum code statewide that local jurisdictions can exceed but not diminish. The legislative committee chair, members and staff assured John and Tim that the bill's intent is not to allow local jurisdictions to diminish the state's minimum code.

John Neff said another bill, SB 6156, requires a final inspection of single-family remodels. The single sponsor of this legislation introduced the bill because she had problems with a remodel, and she wanted to open the topic up for discussion. She welcomes suggestions from BIAW, WABO, and the Council.

Tim referred Council members to the Bill Tracking Log for other bills that are being followed that impact the Council. Krista Braaksma called attention to HB 2771, requiring that any rule that receives more than 200 letters of protest, including form letters and e-mails, must receive a three-fourths majority approval of a legislative rules review committee before becoming effective.

Tim said Council staff will continue monitoring bills. Thursday afternoons are scheduled for teleconference Legislative Committee meetings. Announcements and tracking logs are distributed to members and interested parties on Thursday mornings, and teleconferences are held at 1 p.m. as needed.

GOVERNOR'S CONFERENCE REPORT

John Neff said Governor Gregoire recently held a conference, attended by most Council members, for the 1,800 members of all boards and commissions that she appoints. She said these 1,800 members form a fourth, grass roots branch of government, in addition to the standard three legislative, executive and general government branches. Topics addressed at the conference included board self-evaluations and the need for orientation sessions for new board members.

John Neff called Council attention to a draft document on operating principles. It was suggested at the Governor's conference that each board and commission have a set of operating principles. He suggested that the draft document be examined, for possible adoption at the March 10 Council meeting. Comments during the interim can be sent to either Tim or John Neff. Tim said the draft document addresses Council/staff interactions in several places. A mission statement appears at the end of the document, that Council members can more fully develop. This mission statement is presented to the Legislature and is displayed on the Council's website.

John Neff said another topic of discussion at the conference was media communication. He said the Council lacks a media plan. Having one certainly would have been helpful last year when the barbecue and Christmas tree issues received lots of press. An important question is "who speaks to the press?"

STAFF REPORT

Tim said that a local amendment, verbatim with the City of Kent's, was brought to the Council by King County and approved by the Council in November 2004. The City of Kent did not believe it needed to submit its local amendment.

John Neff said the Council needs to have a discussion about what action the Council should take if it receives information about a local amendment that was not, but should have been, submitted to the Council. Should a letter be sent to the local jurisdiction? If a letter is sent and the local jurisdiction still doesn't submit the local amendment to the Council, what action should the Council then take? Options are to do nothing or to

initiate legal action. Kristyn asked about the consequences of legal action. John Neff answered that one consequence may be nullification of the local ordinance by the court.

It was generally agreed that Kent's local amendment should be submitted to the Council for its review and approval. Neva Corkrum predicted it'll be difficult to disapprove it, since the Council has previously approved an identical amendment submitted by King County. John Neff noted that the uniqueness of the City of Kent and King County may not justify adoption of the local amendment in both jurisdictions.

The Council consensus was that Kent should submit the local amendment for Council review and approval at the March 10 Council meeting. Staff was requested to draft a letter advising Kent of that fact.

Tim advised the Council that during the fourth week of February he'll fly to Washington, D.C. to attend a NCSBCS emergency board meeting. He's been Washington State's delegate to that group since 1997 and currently serves as Treasurer. Facing financial difficulty, NCSBCS will map out its future agenda at that meeting.

ADJOURNMENT

Lacking further business, John Neff adjourned the meeting at 2:05 p.m